

W.P.(MD)No.4380 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 19.02.2025

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THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P.(MD)No.4380 of 2025

M.Kalyani

... Petitioner

Vs.

1.The Internal Audit Officer (Pension),
Audit Branch,
Tamilnadu Generation and Distribution
Corporation Limited, (TANGEDCO)
N.P.K.R.R Malgai 1st Floor,
No.144, Anna Salai,
Chennai – 600 002.

2.The Superintending Engineer,
Pudukottai Electricity Distribution Circle,
Tamilnadu Generation and Distribution
Corporation Limited, (TANGEDCO)
Pudukottai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records relating to the impugned order க.எண்.7745/நிஅ/நிவி2/உதவி/கோப்பு நீவ 2024 dated 09.12.2024 and may set aside the same as erroneous.



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For Petitioner : Mr.K.P.Narayanakumar

For Respondents : Mr.B.Ramanathan
Standing Counsel

ORDER

This writ petition has been filed to quash the order passed by the second respondent, dated 09.12.2024.

2. The case of the petitioner is that her husband Mookan was an employee under the second respondent and he retired from service on 30.06.2008 on attaining the age of superannuation as Foreman Grade I. The petitioner's husband, Mookan originally married with one Gandhimathi, but they did not blessed with children. So with the consent of Gandhimathi and other elders of the family, the petitioner cohabited with Mookan from 1990 onwards and she was blessed with two children, a boy child namely Mani on 12.05.1992 and a girl child namely Selvi on 16.05.1995. All were residing under one roof happily. The said Gandhimathi unexpectedly had her lost breath on 22.09.2012. The incident was happened subsequently to the retirement of Mookan. Hence, with the advise of the elders, Mookan legally married the petitioner on 14.01.2013 at



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Sri Sakthi Vinayagar Temple, Kulathoor. Accordingly, she became the legal

wedded wife of Mookan. Subsequent to the marriage, the petitioner's name was entered into the family ration card as wife of Mookan. The petitioner's husband died on 10.04.2018 leaving the petitioner and two children as legal heirs. The petitioner depended completely on the earnings of her husband till his death. After his demise, the petitioner is entitled to get family pension benefits of her husband. The petitioner submitted several representations to the respondents on 06.09.2018 to 05.10.2018. The first respondent directed the second respondent to obtain legal opinion to consider the request of the petitioner vide letter, dated 29.10.2018. As the petitioner's request was not considered, the petitioner filed writ petition in W.P(MD)No.6483 of 2019 against the respondents. During the pendency of the writ petition, the second respondents issued proceedings, dated 09.12.2024 rejecting the request of the petitioner. Considering the same, the said writ petition was closed with liberty to the petitioner to challenge the same by its order, dated 16.12.2024. Consequently, the present writ petition is filed challenging the rejection order, dated 09.12.2024.

3. The learned counsel for the petitioner would submit that the second respondent failed to note that the marriage between the petitioner and her



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husband took place at Sri Sakthi Vinayagar Temple, Kulathoor, in the presence

of village elders as per Hindu rituals. Hence, the marriage is valid under Hindu

Law. He further submit that the marriage between the petitioner and her

husband took place after the demise of the first wife, Gandhimathi, who is none

other than the sister of the petitioner. Though the petitioner submitted several

documents to prove cohabit with her husband, the respondent without

understanding it properly passed the impugned order. Accordingly, he requested

to quash the same by allowing the writ petition.

4. On the other hand, the learned Standing Counsel for the respondents, on instructions, would submit that the petitioner is not legally wedded wife of Mookan as during the life time of his first wife, Gandhimathi, she married Mookan. The learned Standing Counsel further submits that the petitioner never produced any legal heir certificate or any valid documents to prove the marriage and to satisfy that she is legally wedded wife of Mookan. Accordingly, he submits that there is no infirmity or illegality in the order passed by the second respondent rejecting the request of the petitioner and sought to dismiss the writ petition.



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WEB COPY 5. Having considered the submissions of the respective learned counsels and on careful examination of the materials available on record, it is stated by the petitioner that she is the sister of the Gandhimathi, who is the first wife of Mookan. Admittedly, the Mookan and the petitioner blessed with two children. The main reason to reject the request of the petitioner by the second respondent to grant family pension to her is the petitioner did not prove the marriage occurred on 14.01.2013 only after the demise of the first wife of Mookan on 22.09.2012. As per the learned counsel for the petitioner, the marriage between Mookan and the petitioner was held in the presence of the village elders on 14.01.2013 at Sri Sakthi Vinayagar Temple, Kulathoor. If the petitioner is in a position to prove her marriage with Mookan on 14.01.2013 by producing any proof to be obtained from the Temple authorities, in our view, the issue can be settled positively by the second respondent.

6. It is an admitted fact that the petitioner is aged about 55 years and having two children. As per our culture and customs, no woman claims one person as her husband to get pensionary benefits. In view of the same, we can't brush aside the contention of the petitioner that she is the wife of Mookan. If the



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petitioner is able to produce any valid proof to substantiate her case, then the

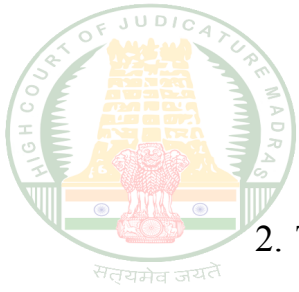
second respondent has to consider her request for family pension.

7. On perusal of the impugned order, it is clear that before passing the impugned order, the second respondent did not afford any opportunity of personal hearing to the petitioner, which is in violation of principles of natural justice. Accordingly, it is liable to be set aside.

8. Considering the facts and circumstances of the case and peculiar issue involved in this case, this Court intends to dispose of this writ petition by granting liberty to the petitioner to produce the relevant documents to substantiate her case before the second respondent and thereafter, the second respondent shall consider those documents and pass orders afresh after giving opportunity of personal hearing to the petitioner.

9. For the above said reasons, the writ petition is disposed with the following directions:

1. The order impugned in this writ petition is set aside and remanded back to the second respondent to pass orders afresh.



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2. The petitioner shall submit the relevant documents to substantiate her claim for family pension to the second respondent within a period of four weeks from the date of receipt of a copy of this order.

3. On receipt of the said documents, the second respondent shall consider those documents and pass orders afresh after giving reasonable opportunity of hearing to the petitioner within a period of one month thereafter.

10. No costs.

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NCC:yes/no
Index:yes/no
Internet:yes/no
Sn

To:

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BATTU DEVANAND, J.

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